IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 1281 of 2007(C)

PETITIONER:

THULASIDHARAN P.C.,
S/O.T.P. KRISHNAN NAIR, AGED 45 YEARS,
KRISHNALAYAM, RESIDING AT NARATH, KANNUR DIST.

BY ADV. SRI.PROMY KAPRAKKATT
SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.P.K.BEENA

RESPONDENTS:

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1. LOCAL SELF GOVERNMENT DEPARTMENT,
REPRESENTED BY ITS SECRETARY, SECRETARIAT,
TRIVANDRUM.

2. NARATH GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, PALLARI,
NARATH POST, KANNUR.

3. M. SOBHANA, D/O. LAEELA GOVINDAN,
AGED 45 YEARS, OCCUPATION NOT KNOWN,
RESIDING AT KURUMTHAZHA VEEDU, P.O. NARATH,
KANNUR DIST.

*ADDL. 4. THE DISTRICT COLLECTOR, KANNUR.
(IMPLEADED SUO MOTU AS ADDL. 4TH RESPONDENT AS PER JUDGMENT DT. 13.03.2007)

BY ADV. SRI.B.RADHAKRISHNA PILLAI
SMT.S.AMBIKA DEVI
SRI.P.U.SHAILAJAN
SRI.P.K.MAHASH
SRI.R.JYOTHIKRISHNAN
SRI.C.KRISHNAN(KANNUR)
SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.SUDHEESH THAROL

ADDL.R4 BY ADV. SMT. T.B. RAMANI, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 1281 OF 2007

Dated this the 13th day of March, 2007

JUDGMENT

The District Collector, Kannur is impleaded suo motu as additional 4th respondent in the Writ Petition. Registry will carry out corrections in the cause title. Government Pleader takes notice on behalf of the additional 4th respondent.

2. This Writ Petition has been filed seeking to quash Ext.P4 issued by the 2nd respondent-Panchayat and Ext.P6 issued by the Government inter-alia on the ground that Ext.P6 has been issued without notice to the petitioner. Ext.P4 notice has been issued to the Panchayat pursuant to Ext.P6 which was communicated by the Government to the District Collector and also to the Panchayat Secretary.

3. The learned Government Pleader would submit that Ext.P6 was issued by the Government without notice to the petitioner. She however would submit that the District Collector has not taken any coercive action in implementation of Ext.P6 and before action is taken the Collector will issued notice to the petitioner and therefore it is not necessary to quash Ext.P6.

4. Learned counsel for the 3rd respondent who is the beneficiary of

Ext.P6 submits that since the Civil Court has decided the issue in favour of the 3rd respondent, Ext.P6 is legally correct. Counsel for the petitioner does not agree with the above submission.

Learned counsel for the Panchayat submits that the Panchayat is not having any objections in hearing the petitioner also before any action is taken pursuant to Ext.P6. Under these circumstances, I am of the view that this Court need not go into the merits of the matter. The Writ Petition will stand disposed of directing the additional 4th respondent to issue notice to the petitioner and also to the 3rd respondent and hear them before any action is taken pursuant to Ext.P6 for restoring the pathway/Thodu which is the subject matter of Ext.P6. Similarly, there will be a direction to the 2nd respondent-Panchayat also to take actions pursuant to Ext.P4 for implementing Ext.P6 only after hearing the petitioner and the 3rd respondent. The petitioner and the 3rd respondent should be permitted both by the District Collector and by the Panchayat Secretary to produce whatever documents are available to substantiate their respective contentions.

PIUS C. KURIAKOSE, JUDGE

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